

City Council Introduction: **Monday**, November 4, 2002  
Public Hearing: **Monday**, November 18, 2002, at **1:30 p.m.**

Bill No. 02-167

## **FACTSHEET**

**TITLE:** **CHANGE OF ZONE NO. 3376**, from R-2 Residential to H-3 Highway Commercial, requested by Ron and Rose McMahan, on property generally located 330 feet north of West "O" Street and N.W. 14<sup>th</sup> Street.

**STAFF RECOMMENDATION:** **Denial.**

**SPONSOR:** Planning Department

**BOARD/COMMITTEE:** Planning Commission  
Public Hearing: 10/02/02  
Administrative Action: 10/02/02

**RECOMMENDATION:** **Denial** (7-0: Carlson, Duvall, Larson, Newman, Schwinn, Bills-Strand and Taylor voting 'yes'; Steward and Krieser absent).

### **FINDINGS OF FACT:**

1. The staff recommendation to **deny** this change of zone request is based upon the "Analysis" as set forth on p.3-4, concluding that the commercial district/use encroaches into the residential district and is not in conformance with the goals and objectives of the Comprehensive Plan.
2. The applicant did not appear at the public hearing on October 2, 2002.
3. There was no testimony in opposition; however, the record consists of one letter in opposition (p.9).
4. On October 2, 2002, the Planning Commission agreed with the staff recommendation and voted 7-0 to recommend **denial**.
5. On October 8, 2002, a letter was received from the applicant requesting that the Planning Commission reconsider this change of zone request because he did not understand the procedures followed by the Planning Commission. This letter was forwarded to the Planning Commission (p.10-11).
6. At the next regularly scheduled meeting of the Planning Commission on October 16, 2002, a motion to reconsider was not made.

**FACTSHEET PREPARED BY:** Jean L. Walker

**DATE:** October 28, 2002

**REVIEWED BY:** \_\_\_\_\_

**DATE:** October 28, 2002

**REFERENCE NUMBER:** FS\CC\2002\CZ.3376

## LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

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**P.A.S.:** Change of Zone #3376

**DATE:** September 16, 2002

**PROPOSAL:** To change the zone from R-2, Residential to H-3, Highway Commercial so the applicant can operate a furniture refinishing business on the south half of the lot at 210 NW 14<sup>th</sup> Street.

**LAND AREA:** 8,470 square feet, more or less.

**CONCLUSION:** The commercial district/use encroaches into the residential district and is not in conformance with the goals and objectives of the Comprehensive Plan.

**RECOMMENDATION:**

Denial

### **GENERAL INFORMATION:**

**LEGAL DESCRIPTION:** South ½ of Lot 9, Block 15, Woods Brothers Lakeview Acres, located in the SW 1/4 of Section 21-10-6.

**LOCATION:** Generally located 330 feet north of West "O" Street and NW 14<sup>th</sup> Street.

**APPLICANT:** Ron and Rose McMahan  
210 NW 14<sup>th</sup> Street  
(402)475-5511

**OWNER:** Same

**CONTACT:** Same

**EXISTING ZONING:** R-2, Residential

**EXISTING LAND USE:** Single family residential

### **SURROUNDING LAND USE AND ZONING:**

North:	Single family housing	R-2, Residential
South:	Commercial	H-3, Highway Commercial
East:	Single family housing	R-2, Residential
West:	Single family housing	R-2, Residential

**COMPREHENSIVE PLAN SPECIFICATIONS:** General Principles for All Commercial and Industrial Uses indicates that: "New or established commercial uses should not encroach upon, or expand into, existing neighborhoods". (Page F 41)

Guiding Principles for Existing Commercial Centers calls to: “maintain and encourage retail establishments and businesses that are convenient to, and serve, neighborhood residents, yet are compatible with, but not intrusive upon residential neighborhoods.” (Page F 49)

The 2025 Comprehensive Plan indicates that there should be a “transition of uses; less intensive office uses near residential areas”. (Page F 21)

The 2025 Comprehensive Plan indicates that NW 14<sup>th</sup> Street is a local road. Local roads are “lower order facilities that essentially serve as a conduit between abutting properties and higher order streets. Local streets provide the lowest level of mobility and generally exhibit the lowest traffic volumes” (Page F 105).

**HISTORY:** This area was zoned A-2, Single Family Dwelling District until the 1979 zoning update when the zone was changed to R-2, Residential.

**TRAFFIC ANALYSIS:** NW 14<sup>th</sup> Street is a residentially paved local street with 27' of paving.

**ALTERNATIVE USES:** Continue to use the property as residential and operate a home occupation as allowed by the Lincoln Municipal Code 27.70.010.

**ANALYSIS:**

1. The applicants propose to split zone Lot 9, Block 15 Woods Brothers Lakeview Acres (R-2, Residential and H-3, Highway Commercial), presumably so that they may live on the north half of the lot and operate a furniture refinishing business on the south half of the lot. LMC 27.81.010(d) indicates that *“every building hereafter erected or structurally altered shall be located on a lot as herein defined and in no case shall there be more than one main building on one lot except as otherwise provided in Chapters 27.65 and 27.71”*. This application does not qualify for any exceptions provided in 27.65 or 27.71. If re-zoned, the zoning must to be for the entire lot, or the lot subdivided.
2. Once a property is re-zoned, any of the permitted uses of the district are allowed. Permitted uses in the H-3, Highway Commercial district include uses which may have various noise and air pollution incompatibilities with the residential neighborhood. Title 27 indicates that the H-3, Highway Commercial district is for areas of “low-density commercial uses requiring high visibility and/or access from major highways”. This property does not have access to a highway or an appropriately designed road for commercial uses.
3. The H-3, Highway Commercial district is not appropriate in this location as it encroaches into the residential neighborhood. The 2025 Comprehensive Plan is clear that commercial uses should not encroach into residential neighborhoods, should be screened and new areas be buffered by less intensive uses, such as low density office.

4. The proposed commercial area is not an appropriate extension of the existing commercial center. The existing grocery store and strip commercial area are oriented to the south and east away from the residential area and area of the proposed change of zone. There is not any proposed connection between the two commercial uses for access or parking.
5. The only street access to this property is NW 14<sup>th</sup> Street which is a 27' wide residential street. The City of Lincoln Design Standards require 33' of paving (no parking) or 39' of paving (with parking) for commercially used local roads. NW 14<sup>th</sup> Street is not designed for commercial traffic.
6. The Public Works & Utilities Department indicated that there is no water main in NW 14<sup>th</sup> Street. A commercial use may require the construction of a public water main to provide adequate fire protection and water service.
7. The applicant may operate a home occupation under the LMC 27.70.010 provided he meets the conditions.

Prepared by:

Becky Horner  
Planner

## CHANGE OF ZONE NO. 3376

### **PUBLIC HEARING BEFORE PLANNING COMMISSION:**

October 2, 2002

Members present: Carlson, Larson, Duvall, Newman, Bills-Strand, Taylor and Schwinn; Krieser and Steward absent.

Staff recommendation: Denial.

Becky Horner of Planning staff submitted a letter in opposition from the property owner at 240 N.W. 15<sup>th</sup> Street.

The applicant was not present.

There was no testimony in opposition.

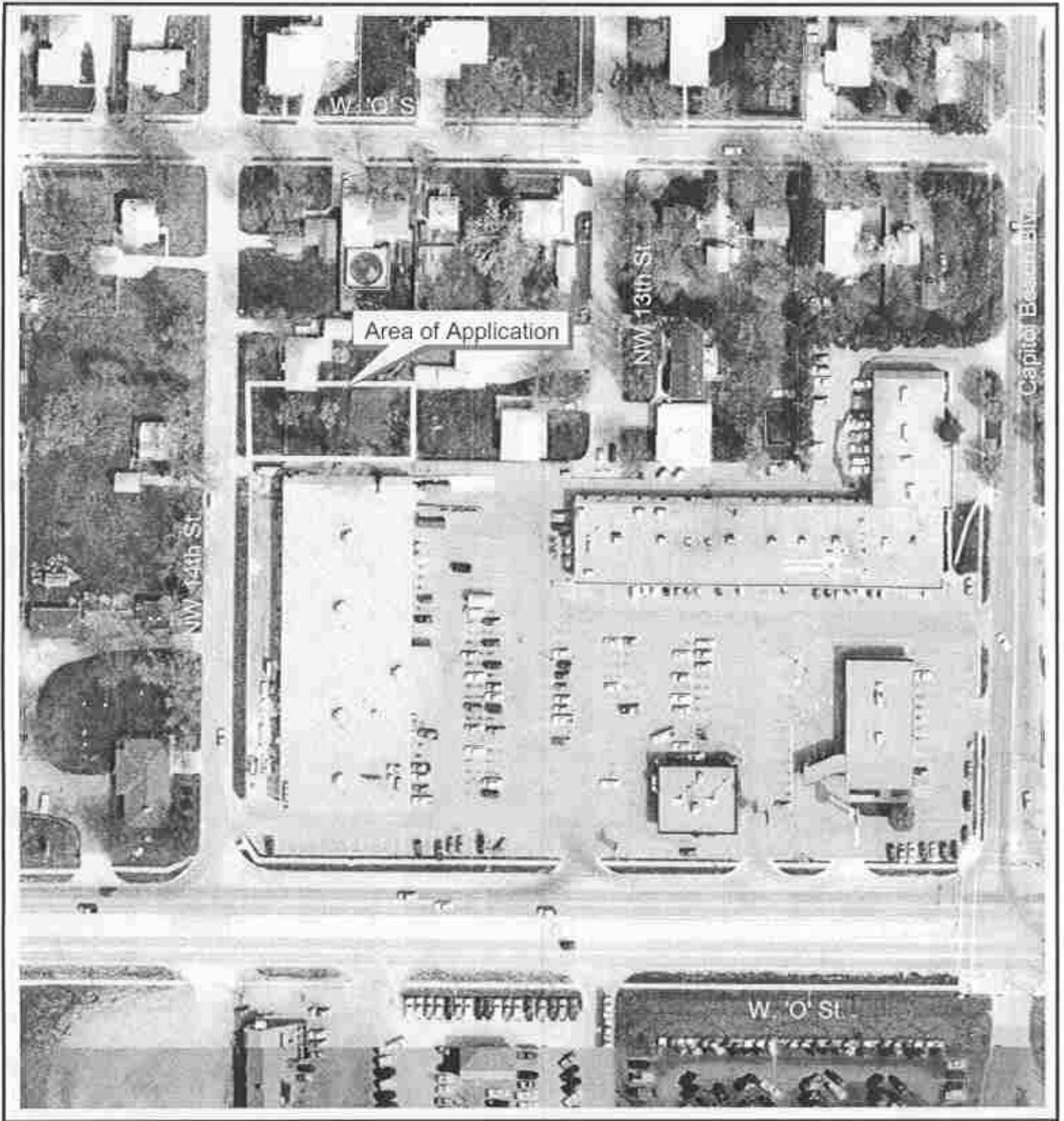
Schwinn inquired whether the staff has had any contact from the applicant. Horner stated that she has not had any contact with the applicant.

Public hearing was closed.

### **ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

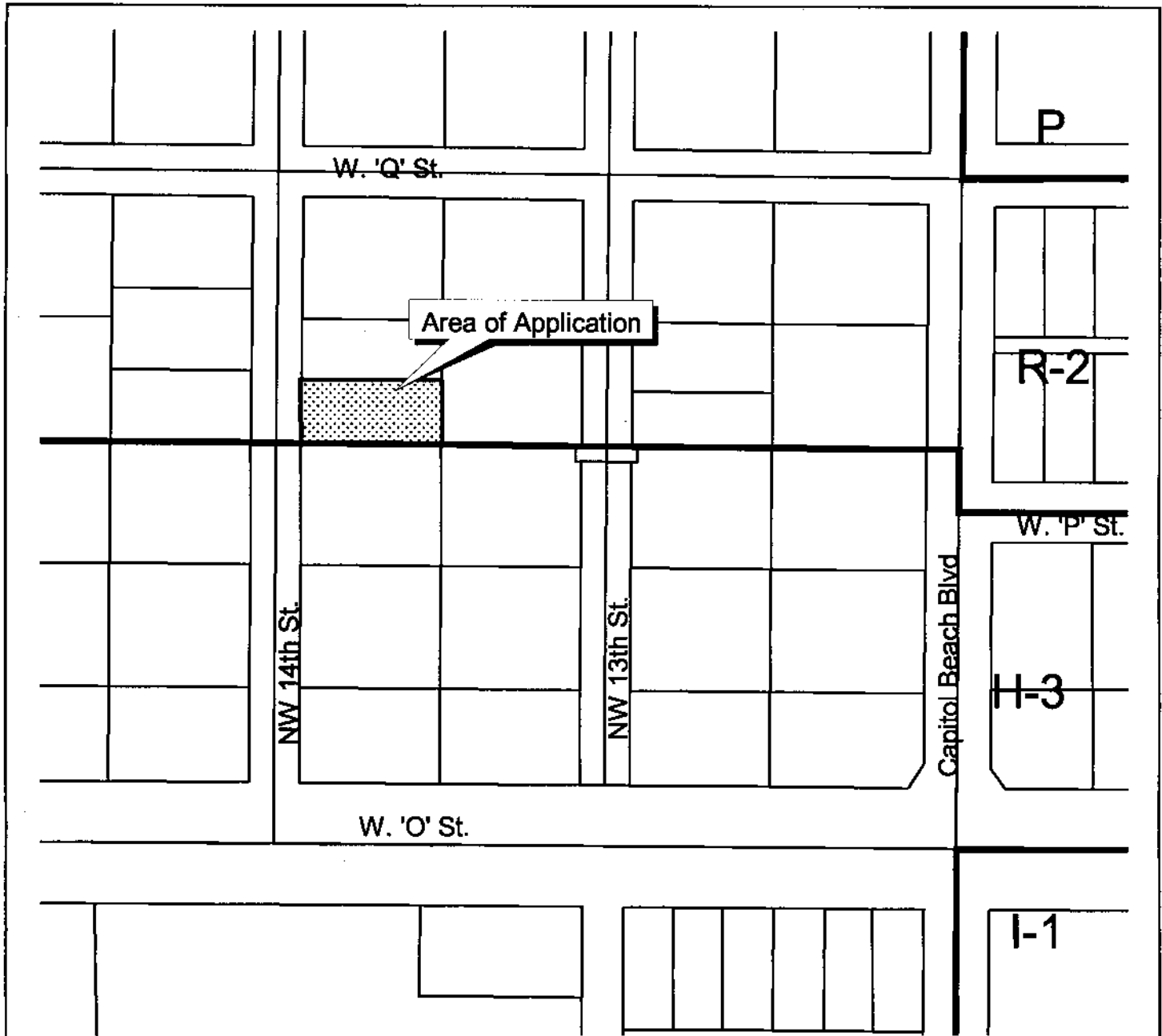
October 2, 2002

Duvall moved to deny, seconded by Newman and carried 7-0: Carlson, Larson, Duvall, Newman, Bills-Strand, Taylor and Schwinn voting 'yes'; Steward and Krieser absent.



**Change of Zone #3376  
NW 14th & W. 'O' St.**



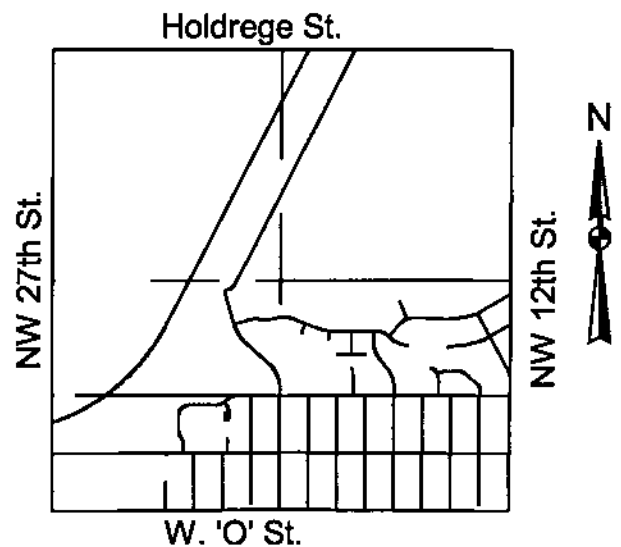
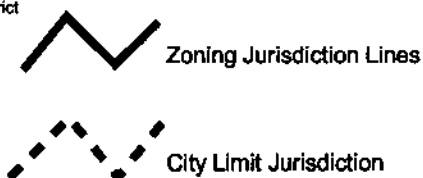


## Change of Zone #3376 NW 14th & W. 'O' St.

### Zoning:

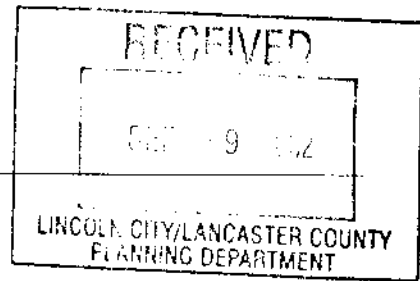
R-1 to R-8	Residential District
AG	Agricultural District
AOR	Agricultural Residential District
R-C	Residential Conservation District
O-1	Office District
O-2	Suburban Office District
O-3	Office Park District
R-T	Residential Transition District
B-1	Local Business District
B-2	Planned Neighborhood Business District
B-3	Commercial District
B-4	Lincoln Center Business District
B-5	Planned Regional Business District
H-1	Interstate Commercial District
H-2	Highway Business District
H-3	Highway Commercial District
H-4	General Commercial District
I-1	Industrial District
I-2	Industrial Park District
I-3	Employment Center District
P	Public Use District

One Square Mile  
Sec. 21 T10N R6E




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# M e m o r a n d u m



**To:** Becky Horner, Planning

**From:**  Dennis Bartels, Public Works and Utilities

**Subject:** Change of Zone, R2 to H3, 210 Northwest 14th Street

**Date:** September 6, 2002

**cc:** Randy Hoskins  
Nicole Fleck-Tooze  
Nick McElvain

Engineering Services has reviewed the proposed change of zone from R2 to H3 at 210 Northwest 14th Street and has the following comments:

1. There is no water main in Northwest 14th Street. A commercial use may require the construction of a public water main to provide adequate fire protection and a water service. Sewer exists abutting this lot.
2. Northwest 14th Street is paved to a residential standard width of 27' between West Q and West O Street.



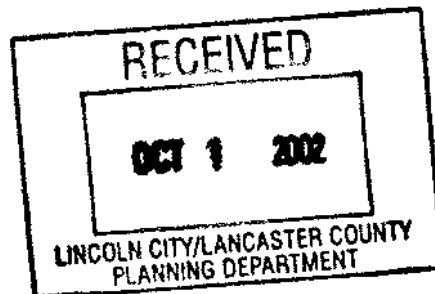
September 30-02.

The Arrigo Family

Property owner of 240 N.W. 15th st  
We have lived at this address 41 years  
and we oppose this change of  
Zone NO 3376 N.W. 14 street &  
West 9th. The R2 Residential  
District should remain R2. We  
do not need a business in  
the back yard of a home.

This Zone change should not happen.

Sincerely,  
Santo & Christine Arrigo  
240 N.W. 15th st.  
Lincoln NE 68528





**Jean L Walker**

10/09/2002 02:08 PM

To: Jean L Walker/Notes@Notes  
cc:  
Subject: RE: CZ.3376

--Jean Walker, Administrative Officer  
City-County Planning Department  
441-6365

----- Forwarded by Jean L Walker/Notes on 10/09/2002 02:08 PM -----



**Jean L Walker**

10/08/2002 02:45 PM

To: jcmc@navix.net, sduvall@neded.org, pnwman1@alltel.net,  
schwinn.hm@prodigy.net, csteward1@unl.edu, gliims@radiks.net,  
Jean L Walker/Notes@Notes, gdkrieser@yahoo.com,  
mbills@woodsbro.com, roger.larson@wellsfargo.com  
cc: Marvin S Krout/Notes@Notes, Rebecca D Horner/Notes@Notes, Ray F  
Hill/Notes@Notes, rpeo@netinfo.ci.lincoln.ne.us@Notes  
Subject: CZ.3376

Dear Commissioners:

Change of Zone No. 3376 from R-2 to H-3 at N.W. 14th and West "O" Street appeared on your October 2nd agenda. The staff recommendation was denial. The applicant was not present. There was no testimony in support nor in opposition. The Planning Commission voted 7-0 to recommend denial.

We have contacted the applicant and, being unfamiliar with the Planning Commission procedures, he thought that the staff recommendation of denial was the decision and he did not realize he was to attend the hearing. We have since received a letter from the applicant requesting to have a reconsideration of his application on October 30th. This letter will be in your packets on Friday. *(letter attached)*

If any of the seven commissioners that voted to deny this change of zone would be interested in allowing this applicant to make a presentation, I would need a motion for reconsideration on October 16th so that we can readvertise and notify property owners of a new hearing on October 30th.

Thank you.

--Jean Walker, Administrative Officer  
City-County Planning Department  
441-6365

Planning Com Attn: Jean Walker

I am attempting To have my lot at 210 N.W 14  
sub Divided and rezoned H-3 Commercial, I recieved  
a Denial in The mail and Thought That was final, Becky  
in your office called and Told me I should have been  
at The Hearing To voice my opinion. I am requesting  
another chance at The next meeting on Oct 30<sup>th</sup> 1:00pm  
Please send me That information and I will be There

Sincerely  
Ron McMahon  
Ron McMahon  
475-5511 Office

